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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,160	11/13/2003	George Legendziewicz	LEGEND 3.0-001	4522

7590 09/20/2004

ROBERT A. GREEN  
17 HAMPTON COURT  
MARLBORO, NJ 07746

EXAMINER

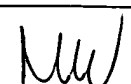
PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,160	<b>Applicant(s)</b> LEGENDZIEWICZ, GEORGE	
	<b>Examiner</b> David J Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-232 is/are pending in the application.
- 4a) Of the above claim(s) 1-127 and 136-232 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 128-135 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### ***Election/Restrictions***

1. Applicant's election without traverse of species H described in figures 15-16 and drawn to claims 128-135 in the reply filed on 7-9-04 is acknowledged.

Applicant's election of species H in the reply filed on 7-9-04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-127 and 136-232 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7-9-04.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains more than 150 words.  
Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 128-135 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 128 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Part B of the claim discloses a fishing rod holder and then in part G the claim discloses one or more fishing rod holders and it is unclear to how many fishing rod holders are claimed.

Claims 129-135 depend from rejected claim 128 and include all of the limitations of claim 128 thereby rendering these dependent claims indefinite.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 128-131, 133 and 135 are rejected under 35 U.S.C. 102(b) as being anticipated by JP Patent No. 2000-41557.

The Japanese patent discloses a fishing rod holder assembly for holding one or more fishing rods thereto comprising, a flush mounted rod holder – see figure 7, mounted within a gunwale of a boat – see figures 3 and 6, a fishing rod holder – see figure 7, for holding a fishing rod – at 20,27, therein, a fishing rod holder support stanchion member – at 42,45,47,49,51, including an anchoring post – at 45,47, having a horizontal crossbar member – at 42, having a first opposing end and a second opposing end – see figure 7, the first opposing end having a first vertical holding post – at 42, connected thereto and the second opposing end having a second vertical holding post – at 42, connected thereto for forming a goalpost configuration thereof – see figure 7, the anchoring post being adaptably mounted within the flush mounted rod holder – see figures 3-7, and at least one of the fishing rod holders – at 41, being integrally attached to a first centrally located position on the first vertical holding post of the fishing rod holder support stanchion – see figure 7, and another one of the fishing rod holders – at 43, being integrally attached to a second centrally located position of the second vertical holding post of the fishing rod holder support stanchion member for forming a fishing rod holder assembly thereof – see for example figure 7.

Referring to claim 129, the Japanese patent further discloses the anchoring post – at 45,47, is connected on the horizontal crossbar member in a perpendicular relationship to the horizontal crossbar member – at 42 – see for example figure 7.

Referring to claim 130, the Japanese patent further discloses the anchoring post has a proximal end and a distal end – see for example at 45,47 in figure 7, the proximal end including a locking notched end – proximate 55 – see figure 7.

Referring to claim 131, the Japanese patent further discloses the fishing rod holder assembly is integrally connected to form a unitary constructed unit – see for example figure 7.

Referring to claim 133, the Japanese patent further discloses the fishing rod holder support stanchion member is made of tubular construction – see for example at 42,45,47 in figure 7.

Referring to claim 135, the Japanese patent further discloses the tubular construction of the fishing rod holder support stanchion member is formed by tubular bending – see for example figure 7.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 132 and 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese as applied to claims 128 or 133 above, and further in view of U.S. Patent No. 4,485,579 to Hawie.

Referring to claim 132, the English abstract of the Japanese patent does not disclose the fishing rod holder support stanchion member is made from materials being rust resistant selected from the group of plastics, steel, stainless steel, aluminum or titanium. Hawie does disclose the support stanchion member – at 11-14, is made from stainless steel – see for example column 2 lines 18-38. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the support stanchion member being stainless steel of Hawie, so as to allow for the device to be more durable for outdoor use.

Referring to claim 134, the English abstract of the Japanese patent does not disclose the tubular construction of the fishing rod holder support stanchion member is formed by welding. Hawie does disclose the fishing rod holder support stanchion member – at 11-14, is formed by welding – see for example column 2 lines 18-38. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the stanchion member being welded together of Hawie, so as to allow for the device to be durable for repeated use.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to fishing rod holders in general:

U.S. Pat. No. 4,869,195 to Eichfeld – shows rod holder with crossbar

U.S. Pat. No. 4,876,980 to Bell – shows rod holder in gunwale

U.S. Pat. No. 5,383,299 to Smelker – shows dual rod holder

U.S. Pat. No. 5,435,093 to Minorics – shows rod holder with crossbar

U.S. Pat. No. 5,673,507 to Stokes – shows rod holder with crossbar

U.S. Pat. No. 5,987,803 to White – shows dual rod holder in gunwale

U.S. Pat. No. 6,052,937 to Morong – shows multiple rod holder

U.S. Pat. No. 6,289,627 to Gibbs – shows multiple rod holder

JP Pat. No. 10-201406 – shows boat mounted rod holder

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Art Unit: 3643

DP  
David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

9/15/04